

**MINUTES**

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

W. HAROLD ALBRITTON, SENIOR U. S. DISTRICT JUDGE, PRESIDING, AT MONTGOMERY, AL

DATE COMMENCED: October 24 2006  
DATE COMPLETED: November 3, 2006

AT: 10:18 p.m.  
AT: 3:07 p.m.  
(Court Time: 17 hours 2 min.)

UNITED STATES OF AMERICA )

vs. )

TYRONE WHITE and ADAM FLOYD )

CR. No. 3:05cr234-WHA

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**APPEARANCES:**

**GOVERNMENT**

Todd Brown  
David Cooke

**DEFENDANT**

Russell Duraski (White)  
Jeffery Duffey (Floyd)  
Benjamin Schoettker (Floyd)

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**COURT OFFICIALS PRESENT**

Risa Entrekin, Court Reporter  
Elna Behrman, Courtroom Deputy

Lisa Harden, Law Clerk

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**JURORS**

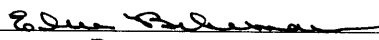
1. Benjamin Givens
2. Scotty Fincher
3. Lee Ann Woodham
4. David Williams
5. Brenda Davis
6. Emory Stubbs, Jr.
7. Peggy Hall

8. Kenneth Stremski
9. Roger Chambless
10. Duane Beasley
11. Larry Casedy
12. Dildred Bass

**ALTERNATE JURORS**

1. Kathy Currington
2. Anna Smith

I hereby certify that Juror #1 (Givens) served on October 24, 2006 and was excused before the start of the trial. Jurors #2 - 12 and Alt. 1 served on October 31, 2006 - November 3, 2006. Alternate Juror #2 served on October 24, 2006 and October 31 - November 2, 2006.

  
Courtroom Deputy

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COURTROOM PROCEEDINGS

**(X) Jury Selection**

10:18 a.m. Court is in session.  
Court gives welcoming remarks to jury venire.  
Jury is sworn.  
General jury qualification for multiple juries begins.

11:27 a.m. General jury qualification is completed.

11:27 a.m. Jury selection begins.

12:19 p.m. Court is in recess until 1:15 p.m.

1:25 p.m. Jury selection continues.  
Jury is selected.  
Defendant makes a Batson Challenge (Jurors #32, 37, 52, 58).  
Court states Defendant has made a prima facie case for the challenge.  
Defendant states reasons for challenge for each juror. Government responds.  
Court rules as follows: Juror #32 (Hamlin) - denies  
Juror #37 (Massie) - denies  
Juror #52 (Lamar) - denies  
Juror #58 (Bass) - sustains and Juror Bass is placed on the jury.

2:50 p.m. Jury selection is completed and jurors are excused until 10/30/06 at 9:00 a.m.

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**(X) TRIAL**

10/31/06

10:00 a.m. Court is in session.  
All parties request Rule be invoked.  
Court goes over general matters with attorneys.  
Government offers Stipulation Regarding Authentication of Documents.  
Mr. Duffey states there is no objection to Government's exhibits being admitted in total  
with the exception of Government's Exhibit #22.  
Court asks the Government to offer each exhibit into evidence.  
Court requests audience to be respectful and not disrupt trial in any way.

10:09 a.m. Jury is brought in.  
Court welcomes jury.  
Jury is sworn.  
Court gives general instructions to jury as to how case will proceed.

10:31 a.m. Court is in recess to allow court to answer question from the jury in another case.

11:15 a.m. Trial resumes.  
Government gives opening statement (16 min).

11:32 a.m. - 11:33 a.m. Side bar conference (on the record).

11:33 a.m. Mr. Brown corrects a statement made by him during his opening statement.  
Mr. Duraski gives opening statement on behalf of Defendant White (6 min).  
Mr. Schoettker gives opening statement on behalf of Defendant Floyd (5 min).  
Court gives instructions to jury regarding not discussing case during recesses.

11:46 a.m. Jury is excused until 1:00 p.m.

11:46 a.m. - 11:50 a.m.	Side bar conference (on the record) regarding excused juror (Givens) and agreement to admit Government exhibits 1-22 in total.
11:50 a.m.	Court is in recess.
1:00 p.m.	Government begins presentation of its case.
1:06 p.m. - 1:10 p.m.	Side bar conference (on the record).
1:10 p.m.	Testimony resumes.
2:52 p.m. - 3:15 p.m.	Court is in recess.
3:15 p.m.	Testimony resumes.
	Jury is excused until 11/1 at 9:00 a.m.
5:04 p.m.	Court is in recess.

11/1/06

9:06 a.m.	Court is called to order.
9:09 a.m.	Court advises attorneys of possible problem with Juror Casedy. Court is in recess to allow Juror Casedy to make a telephone call.
9:15 a.m.	Court is in session. Jury is brought in. Government resumes presentation of its case.
10:30 a.m.	Jury is excused until 10:45 a.m.
10:30 a.m.- 10:37 a.m.	Side bar conference (on the record) regarding the witness from NTSA.
10:37 a.m. - 10:46 a.m.	Court is in recess.
10:46 a.m.	Testimony continues.
12:00 p.m.	Jury is excused until 1:30 p.m. Court takes up matter of the NTSA representative. Government tenders summary of the expected testimony. Mr. Duffey argues in opposition to the testimony. Government responds. Court sustains Defendant's objection to the testimony.
12:24 p.m.	Court is in recess.
12:24 p.m. - 1:30 p.m.	Court is in recess.
1:30 p.m.	Testimony resumes.
2:50 p.m. - 2:51 p.m.	Side bar conference (on the record).
2:51 p.m.	Testimony continues.
3:06 p.m.	Court is in recess until 3:20 p.m.
3:06 p.m. - 3:22 p.m.	Court is in recess.
3:22 p.m.	Testimony resumes.
3:50 p.m. - 3:51 p.m.	Side bar conference (on the record) regarding stipulation.
3:51 p.m.	Government reads two stipulations (Court's Exhibits #1 and 2). Testimony continues.
4:19 p.m. - 4:22 p.m.	Side bar conference (on the record) regarding the digital recording.

4:22 p.m. Jury is excused while Government prepares the recording for playing.  
 4:22 p.m. - 4:36 p.m. Court is in recess.  
 4:36 p.m. Testimony resumes.  
 Court is excused until 11/2 at 9:00 a.m.  
 4:50 p.m. Court is in recess.

**11/2/06**

9:04 a.m. Court is in session.  
 Government resumes presentation of its case.  
 9:18 a.m. - 9:18 a.m. Side bar conference (on the record) regarding recorded exhibits.  
 9:19 a.m. Testimony continues.  
 9:59 a.m. - 10:01 a.m. Side bar conference (on the record) regarding objection by Def. Floyd to Govt. Exh. #24.  
 Court overrules objection.  
 10:01 a.m. Testimony continues.  
 10:20 a.m. - 10:21 a.m. Side bar conference (on the record) regarding bank records.  
 10:21 a.m. Jury is excused until 10:40 a.m.  
 10:22 a.m. - 10:40 a.m. Court is in recess.  
 10:40 a.m. Testimony continues.  
 11:07 a.m. - 11:09 a.m. Side bar conference (on the record) regarding Government's Exhibit #40.  
 11:09 a.m. Testimony continues.  
 11:45 a.m. Government rests.  
 Jury is excused until 1:15 p.m.  
 11:46 a.m. - 11:50 a.m. Court is in recess.  
 11:50 a.m. Court is in session.  
 Defendant Floyd makes and argues oral Motion for Judgment of Acquittal on conspiracy counts after Count 5.  
 Government responds.  
 Court GRANTS the motion to the extent that there is no evidence to sustain conspiracy counts for any action after the events involved in Count 5.  
 Defendants Floyd also makes and argues Motion for Judgment of Acquittal for counts involving threats or fear.  
 Government responds.  
 Court GRANTS the motion as to Counts 2, 3, 4 and 5 only as to the element of fear.  
 Defendants Floyd makes and argues Motion for Judgment of Acquittal for Count 1.  
 Government responds.  
 Court GRANTS the motion as to Count 1 only as to the fear element. Court further states all counts (2, 3, 4 and 5) are granted only as to the element of fear as to Defendant Floyd.  
 Defendant Floyd makes and argues Motion for Judgment of Acquittal as to the Hobbs Act count.  
 Court DENIES the motion for the failure to connect with minimal effect on interstate commerce.  
 Defendant White adopts Defendant Floyd's arguments on the motions.

Court DENIES the motion regarding the Hobbs Act count with same reason as Defendant Floyd.

For the same reasons as stated earlier, court GRANTS any motion as to the element of fear only (Counts 1-12).

Defendant White moves for Judgment of Acquittal on Count 11.

Government responds.

Court GRANTS the motion as to Count 11.

Defendant White moves for Judgment of Acquittal on Count 12 as to extortion.

Government responds.

Court GRANTS the motion as to Count 12.

Defendant White moves Count 13 be dismissed because of its relation to Count 12.

Court DENIES the motion.

Court states for the records that both Defendants will rest and that both Defendants renew their motions for Judgment of Acquittals. All rulings remain the same.

12:30 p.m. - 1:16 p.m.

Court is in recess.

1:16 p.m.

Court is in session.

Jury is brought in.

Defendant White rests.

Defendant Floyd rests.

Jury is excused until 1:45 p.m.

1:20 p.m. - 2:00 p.m.

Court is in recess.

(1:35 p.m. - 2:00 p.m.)

Charge conference - off the record)

2:00 p.m.

Court is in session.

Government begins closing argument (23.5 min.)

Defendant White gives closing argument (36 min)

Defendant Floyd gives closing argument (17 min)

Government resumes closing argument (13 min)

Jury is excused until 3:45 p.m.

3:35 p.m. - 3:45 p.m.

Court is in recess.

3:45 p.m.

Court is in session.

Court gives instructions to jury.

4:19 p.m. - 4:21 p.m.

Side bar conference (on the record) regarding jury instructions.

Government has no objections.

Defendant White has no objections.

Defendant Floyd objects to the portion concerning interstate commerce.

Court overrules objection.

4:21 p.m.

Court names alternate juror - Anna Smith.

Jury is excused to begin deliberations.

Court excuses Ms. Smith with the thanks of the court.

Government offers Court Exhibit #3 into evidence for identification purposes only.

Defendant White states the matter of withdrawn exhibits has been taken care of.

Defendant Floyd objects to Exhibit #24 going to jury.

Court overrules the objection.

4:30 p.m.

Court is in recess.

5:00 p.m.

Court is in session.

5:04 p.m. Foreperson states jury wishes to return tomorrow to continue deliberations.  
Jury is excused until 11/3 at 9:00 a.m.  
Court is in recess.

**11/3/06**

10:12 a.m. Court is in session.  
Court advises attorneys that the jury would like to take a break.  
10:14 a.m. Foreperson is called in and given instructions to relay to jury.  
Court is in recess.

11:56 a.m. Court is in session.  
Court advises attorneys he will call Foreperson in as before and discuss lunch.  
Foreperson is brought to the courtroom.  
Foreperson states jury would like to take a lunch break.  
12:00 p.m. Court excuses the jury until 1:00 p.m. and advises not to discuss the case.  
Court is in recess.

3:02 p.m. Court is in session.  
Court announces jury has reached a verdict.  
Court cautions audience about behavior while verdict is being read.  
Jury is brought in.  
Court reads verdict as to Defendant White.  
Court reads verdict as to Defendant Floyd.  
Jury is polled.  
Jury is excused with the thanks of the court.  
Court will enter an order regarding sentencing.  
Both Defendants will be continued under the same terms and conditions imposed by  
the Magistrate Judge.  
3:07 p.m. Court is adjourned.